

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

RACHEL BROWN, Individually and as Spouse, §  
And as Personal Representative of the §  
Estate of James Brown, DINETTA §  
SCOTT, as Mother of James Brown and §  
JAYLIAH BROWN, as child of §  
James Brown, §

Plaintiffs, §

v. §

COUNTY OF EL PASO, ex. rel. §  
EL PASO COUNTY JAIL, and Officers §  
John Does 1-10, §

Defendants. §

EP-14-CA-291-KC

**DEFENDANT EL PASO COUNTY'S FIRST AMENDED ANSWER**

TO THE HONORABLE COURT:

Now comes Defendant County of El Paso ("the County") and files this First Amended Answer to the Amended Petition, and respectfully shows the following:

1. The County generally denies each and every allegation contained in the Petition filed herein, and demands strict proof of same.

2. The County admits that the allegations under the heading "Parties, Jurisdiction and Venue," constituting paragraphs 1 – 15 of the Petition, at least insofar as they relate to the County, are true. The County has insufficient information to determine the truth of the allegations as they relate to Plaintiffs and Mr. Brown.

3. The County has insufficient information to determine the truth of the allegations under the heading "Factual Background," constituting paragraphs 16 – 33,

and denies that the death of Mr. Brown was caused by a constitutional deprivation, wrongful death or personal injury caused by the County.

4. The County denies the allegations under the heading “Count I,” constituting paragraphs 34 – 41. The County did not exercise unreasonable use of force on Mr. Brown, nor deprive him of a constitutional right. At all times, the County’s use of force on Mr. Brown was reasonable under the circumstances, and was privileged as a result of his violent behavior and refusal to comply with simple commands of the detention staff. The Petition fails to state a claim against the County for unreasonable use of force.

5. The County denies the allegations under the heading “Count II,” constituting paragraphs 42 – 60. The Petition fails to state a claim for which relief may be granted under the Equal Protection and Due Process clause. The County acted appropriately under the circumstances, and did not intentionally discriminate against Mr. Brown on the basis of his disability or any other factor. Mr. Brown did not request any form of accommodation.

6. The County denies the allegations under the heading “Count III,” constituting paragraphs 61 – 70. The County provided Mr. Brown with prompt medical attention, and was not deliberately indifferent to his medical needs. The Petition fails to state a claim for which relief may be granted.

7. The County denies the allegations under the heading “Count IV,” constituting paragraphs 71 – 79. The Petition fails to state a claim under the Texas Tort Claims Act, and the County is immune from liability for tort absent an express waiver of immunity under the Act.

8. The County denies the allegations under the heading "Count V," constituting paragraphs 80 – 83. The Petition fails to state a claim under the Texas Tort Claims Act, and the County is immune from liability for tort absent an express waiver of immunity under the Act.

Wherefore, the County prays this Court enter Judgment in its behalf, that the Plaintiffs take nothing by their suit, that the County recover its costs and a reasonable attorney's fee, and for such other and further relief to which it may be justly entitled.

**Respectfully submitted,**

**JO ANNE BERNAL**  
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BY: /s/ Michael R. Wyatt  
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**CERTIFICATE OF SERVICE and NOTICE OF ELECTRONIC FILING**

I do hereby certify that I have electronically submitted for filing a true and correct copy of the foregoing instrument in accordance with the Electronic Case Filing System of the Western District of Texas, and that a true and correct copy of the foregoing instrument has been sent via the ECF system to the following parties, this 26<sup>th</sup> day of November, 2014.

**Jason Bowles**, Bowles Law Firm, P.O. Box 25186, Albuquerque, NM 87125, via facsimile (505) 217-2680

**B.J. Crow**, Crow Law Firm, 400 N. Pennsylvania Avenue, Suite 1150, Roswell, NM 88201, via facsimile (575) 291-0201

/s/ Michael R. Wyatt  
**MICHAEL R. WYATT**